IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

Bail Appl..No. 1198 of 2007()

CRIME NO. 667 OF 2006 OF KALAMASSERY POLICE STATION

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PETITIONERS/ACCUSED 1 & 3

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1. NISHAD, S/O.MOIDEEKUNJU, AGED 28,
KURUPPAM VEEDU, KODIKUTHIMALA BHAGAM,
ASOKAPURAM P.O., CHOORNIKKARA PANCHAYATH,
ALUVA EAST VILLAGE.

2. JALEEL S/O.MUSTHAFA, AGED 24,
NADUPARAMBIL VEEDE, KODIMUTHIMALA BHAGAM,
ASOKAPURAM P.O., CHOORNIKKARA PANCHAYATH,
ALUVA EAST VILLAGE.

BY ADV. SRI.P.SHAIJAN JOSEPH

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP.BY C.I. OF POLICE,
KALAMASSERY POLICE STATION THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY DIRECTOR GENERAL OF PROSECUTIONS SRI. P.G. THAMBI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Bail Application NO. 1198 of 2007

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DATED: 08-03-2007

O R D E R

Petitioners who are accused Nos. 1 and 3 in Crime No. 667 of 2006 of Kalamassery Police Station for offences punishable under Sections 120 B, 447, 302 and 394 read with Sec. 34 I.P.C., seek their enlargement on bail. The occurrence took place in the night of 2710-2006. The petitioners were arrested on 2-11-2006. The have been in custody for about 125 days.

2. Sri.P.G. Thambi, the learned Director General of Prosecutions opposed the application submitting inter alias as follows:-

The deceased who was an autorikshaw driver belonging to Palakkad was in the habit of consolidating his daily collections and repatriating the same every month. Watching his movements the accused had on the ill-fated night, hired his autorickshaw, with a view to robbing him of his belongings. They took him to a desolate place and caused his death by strangulation and smothering. The brutal and heartless nature in which the ploy was executed does not deserve bail to the

petitioners.

3. Admittedly, there is no eye witness to the occurrence. The prosecution rests its case on circumstantial evidence. If ultimately, the petitioners are found guilty, they may deserve most condign punishment. But, that is not a reason for pre-trial incarceration. Interests of justice can adequately be met by imposing appropriate conditions safeguarding the interests of the prosecution as well. Accordingly, the petitioners are directed to be released on bail each of them executing a bond for Rs. 10,000/- (Rupees ten thousand only) with two solvent sureties each for the like amount to the satisfaction of the J.F.C.M-II, Aluva and subject to the following conditions:

1. *The petitioners shall report before the Investigating Officer between 9 a.m. and 11 a.m. on all Wednesdays.*

2. *The petitioners shall make themselves available for interrogation as and when required by the police till the filing of the final report.*

3. *The petitioners shall not influence or intimidate the prosecution witnesses nor shall*

they attempt to tamper with the evidence for the prosecution.

4. *The petitioners shall not commit any offence while on bail.*

If the petitioners commit breach of any of the above conditions, the bail granted to them shall be liable to be cancelled.

This application is allowed as above.

V.RAMKUMAR, JUDGE.

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